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OFFICE OF PETITIONS

In re Application of :
Lin Cheng : DECISION ON PETITION
Application No. 09/934,549 :
Filed: August 23, 2001 :
Attorney Docket No. TS01-285 :

This is a decision on the PETITION UNDER 37 CFR 1.181(a)
REQUESTING WITHDRAWAL OF HOLDING OF ABANDONMENT UNDER M.P.E.P.
§ 711.03 filed May 2, 2006.

The petition under § 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed July 29, 2005. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective October 30, 2005. A courtesy Notice of Abandonment was mailed on March 8, 2006.

Applicant requests withdrawal of the holding of abandonment on the basis that a proper response, a Notice of Appeal and a Request for Extension of Time were transmitted by facsimile to the Office on December 30, 2005. In support thereof, applicant submits a copy of the Response, including the facsimile confirmation.

37 CFR § 1.8(b) provides that:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The instant petition was promptly filed within the meaning of 1.8(b)(1), included a copy of the response as petitioner maintains it was originally transmitted on November 30, 2005, and includes a statement attesting to that transmission supported with a copy of the auto-facsimile transmission from the USPTO confirming receipt on November 30, 2005 of the 12-page facsimile. (The appeal fee of \$500 and the extension fee of \$120 required for timely acceptance of the response were previously made of record with indication of receipt on November 30, 2005).

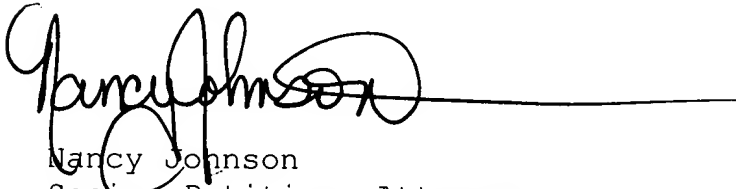
In view thereof, the Notice of Abandonment mailed March 8, 2006 is hereby vacated, and the holding of abandonment is withdrawn.

No fee is required on petition under § 1.181.

Please be advised that the two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the mail date of this decision.

Technology Center AU 3637 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical staff to withdraw the holding of abandonment, to process the Notice of Appeal resubmitted on petition filed May 2, 2006, and for the examiner to await filing of applicant's Appeal Brief.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson", followed by a long horizontal line extending to the right.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions